

DECLARATION OF COLETTE PELISSIER IN SUPPORT
OF PLAINTIFF'S RESPONSE TO DEFENDANT'S
MOTION FOR SANCTIONS

I, COLETTE PELISSIER, DO HEREBY DECLARE:

1. I am over the age of eighteen (18) and otherwise competent to make this declaration.
2. The facts stated in this declaration are based upon my personal knowledge and, if called upon to do so, I will testify that the facts stated herein are true and accurate.
3. I own Malibu Media, LLC d/b/a as X-Art.com ("Malibu"). No other person or entity has or can claim an ownership interest in the X-Art.com movie copyrights.
4. I am aware of an ongoing discovery dispute between the parties related to communications between Malibu and its infringement detection expert, IPP International ("IPP").
5. IPP was retained by Malibu to investigate and record instances of infringement of Malibu's copyrights via the BitTorrent network. IPP was required to provide Malibu or its counsel data evidencing instances of infringement tied to specific IP addresses, evidence of additional instances of copyright infringement of third-party content, and corresponding affidavits for use in suits tied to those specific IP addresses detected infringing Malibu's copyrighted content.
6. Importantly, IPP was not required to provide any additional correspondence to Malibu or its counsel unless IPP was to be called as a witness. Nor did IPP routinely communicate with Malibu or its counsel outside of providing evidence of infringement and corresponding affidavits.
7. On the date of my deposition in this matter, I was not feeling well and may not have been as precise in my responses as I should have been.
8. My testimony in my deposition in this matter with respect to text communications with IPP over WhatsApp pertained to a meeting with IPP's principals in 2015 or 2016 for a social engagement in Malibu, California.
9. Indeed, I never communicated with IPP about this case specifically.
10. During the course of this litigation, I attempted to reach IPP's principals via Skype and WhatsApp voice call functions to specifically discuss IPP's recording of copyright infringement but was never successful in reaching anyone at IPP.
11. I have, in good faith, reviewed my text messages, email messages and other communication applications and did not locate any additional communications between Malibu and IPP related to this suit, [and termination of their services??]
12. Following the settlement with Malibu's prior counsel, Lomnitzer Law Firm ("Lomnitzer"), Malibu was provided a hard drive purporting to contain all documents and

communications regarding Malibu case files handled by Lomnitzer over the course of two years of representation. Upon examination of the hard drive, my counsel advised that no communications to, from, or about IPP not previously provided to the defendant in this case were contained on the hard drive.

13. Lomnitzer has further indicated that no additional communications related to IPP and this matter exist.

14. Malibu and Lomnitzer terminated their relationship in August 2019.

DECLARATION

PURSUANT TO 28 U.S.C. § 1746, I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: 

Colette Pelissier

Date: Jan 21, 2021